

SEP 01 2004
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application No. 10/734,073
Filed: December 12, 2003
Original Patent No. ~~6,327,497-B1~~ (5,074,456)
Issue Date: ~~December 4, 2004~~ (December 24, 1991)
Patentee: ~~Kirchgeorg et al.~~ (Raymond L. Degner)
Attorney Docket No.: ~~005471-00002~~ (10993-35)

SIW

Date: August 26, 2004

Commissioner for Patents
Office of Petitions
P.O. Box 4015
Alexandria, VA 22313-1450

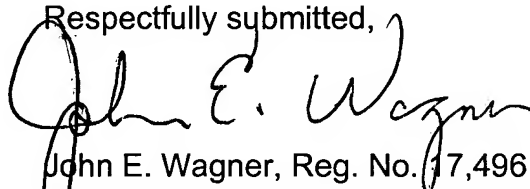
Dear Sir:

Enclosed please find:

- ▶ Acknowledgement Postcard
- ▶ 2 Cover Sheets w/Certificate of First Class Mailing
- ▶ Certificate of Service
- ▶ Request to Correct Decision
- ▶ Copy of USPTO Aug. 17, 2004; Petition

Please charge any additional fees and credit any overpayment to Deposit Account No. 23-0083. A duplicate of this cover sheet is enclosed.

Respectfully submitted,

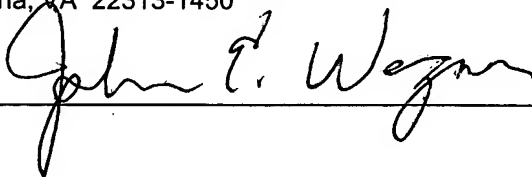


John E. Wagner, Reg. No. 17,496
LAW OFFICES OF JOHN E. WAGNER
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Glendale, CA 91208
(818) 957-3340

CERTIFICATE OF FIRST CLASS MAIL (37 CFR 1.8)

I hereby certify that these documents are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Office of Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Signed



Dated

8/26/04



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REQUEST TO CORRECT DECISION

This office received the enclosed copy of an action On Petition containing critical errors, including the identification of the patent in Reissue. The corrected heading is present on this response. This is to request that the Petition dated August 17, 2004, in reissue application 10/734,073 be corrected to read as above.

The corrections needed to be made are:

- 1) the original patent number for the above reissue application is 5,074,456;
- 2) the correct issue date is December 24, 1991;
- 3) the patentee is Raymond L. Degner et al.;
- 4) the correct attorney docket is 10993-35;
- 5) the second paragraph should identify the petition as "moot";
- 6) in the third paragraph, the third sentence should be changed to read:
"Inspection of the record reveals that a protest was timely filed by facsimile

transmission on May 10, 2004, May 9, 2004, being a Sunday. 37 CFR 1.7"

7) The fourth paragraph is properly deleted.

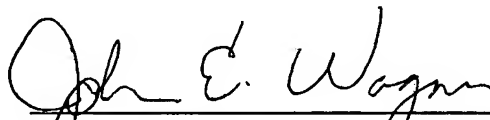
The petition by this office was to assure at least the full two-month period to respond from the *Official Gazette* date of March 9, 2004. The two-month date of May 9, 2004, fell on a Sunday, whereby in accordance with 37 CFR 1.7, the last day to respond was May 10, 2004.

The protest was therefore timely filed.

The protestor is aware that protest received after the two-month period, but before actions have been taken by the U.S. Patent and Trademark Office, that the protest will be received and considered.

Inasmuch as the decision on the petition did become moot, it is believed that and I understand that since the protest and reexamination requests filed will result in a reexamination of all 36 claims of the Degner patent. However, in the interest of maintaining the record clear as to the reissue application, it is requested that the above changes be made in the form of a replacement action on the Petition.

Respectfully submitted,



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On Behalf of Petitioner, Xycarb Ceramics
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Glendale, CA 91208
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JW:mm

Enclosure: Copy of Petition Dated August 17, 2004

CERTIFICATE OF SERVICE

It is certified that a copy of this communication

REQUEST TO CORRECT DECISION

has been served in its entirety by First Class U.S. mail on counsel for the patent owner each third party requester as provided in 37 CFR 1.33(c). The names and addresses of the parties served and the date of service are:

Reissue Application 10/734,073 In re Reissue of U.S. Patent 5,074,456 of

Raymond Degner et al.

Peter K. Skiff
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22313-1404

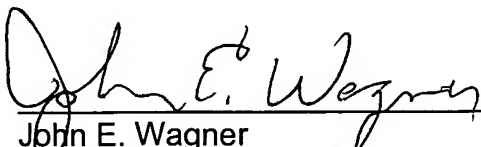
and

Reexam No. 90/007,027
Sadao Kinashi
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, N.W., Suite 700
Washington, D.C. 20036

Date of Service: August 26, 2004

Respectfully submitted,

LAW OFFICES OF JOHN E. WAGNER

By: 
John E. Wagner
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Date: August 26, 2004
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